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<p>1 can release any information regarding my 2 case to Ms. Robichaud. Thank you for 3 your cooperation. 4 Now, you write here in your 5 signature line, Mathew Thomas, Jr., M.D., 6 MHSA, CHC. What is CHC? 7 A. Certified healthcare 8 compliance. 9 Q. Exhibit 56. In Exhibit 56, 10 this is Ms. Robichaud to Ms. Buono at the 11 bottom of the first page. Ms. Buono, 12 thank you again for your time today. I 13 want to try to summarize our conversation 14 from today. She writes her understanding 15 is that the USMLE does not yet have a 16 formal waiver process in place for the 17 six-attempt limit. 18 She writes: The USMLE will 19 accept requests from state licensure 20 boards to waive the six-attempt limit for 21 individuals and to date has granted those 22 requests specifically from New York and 23 Florida. 24 Based on this, should the</p>	<p>1 Q. So did you contact anyone at 2 the New York board to see if they'd be 3 willing to advocate for you? 4 A. I forget if Rebecca had 5 contacted anyone or not, to be honest. 6 Q. Did you? 7 A. There was one, I don't know 8 if it was an assemblyman or councilman, 9 that I sent a letter to, but I did not 10 get a response. 11 Q. I want to talk a bit about 12 the future and what you envision for 13 yourself. First, with regard to this 14 lawsuit, what exactly is it that you hope 15 to accomplish in filing this lawsuit? 16 A. I would like my exam 17 validated from 2007 and, therefore, be 18 completely ECFME certified and not having 19 to re-take Step 1 or Step 2 CS. 20 Q. If your exam was validated 21 as you said you wished, you recognize 22 that you would still have to take Step 3? 23 A. I'm very much aware of that. 24 Q. What have you done in the</p>
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<p>1 New York licensure board request such a 2 waiver for Dr. Thomas for Step 1 and/or 3 Step 2, USMLE would, based on this 4 precedent, grant the waiver. 5 Also, from our discussion 6 it's my understanding the only thing 7 limiting Dr. Thomas from retaking Step 1 8 and/or Step 2 from USMLE's perspective is 9 the six-attempt limit. The ECFMG has a 10 requirement that Step 1 and Step 2 be 11 taken within seven years of each other. 12 And then Amy Buono writes 13 back: I'd like to make a clarification. 14 I cannot represent the USMLE would grant 15 a waiver of the six-attempt limit should 16 the New York licensure board request it, 17 only that USMLE would consider granting 18 the request. 19 A. Correct. 20 Q. Did the New York board ever 21 request a waiver on your behalf? 22 A. We never went full force 23 with that. We went instead with this 24 process.</p>	<p>1 intervening time to prepare for the Step 2 3 examination? 3 A. I have not done anything. 4 Once this whole process started I had to 5 stop everything. 6 Q. When did you envision taking 7 the Step 3 exam? 8 A. As of right now, I can't 9 unless I take my Step 2 which I can't 10 take because of the six-year rule and the 11 seven-year limit, so, basically, if I 12 don't win this case, I'm done. 13 Q. Let's pretend for a moment 14 that your 2007 score is validated and you 15 do not have to re-take Step 1 or Step 2 16 CS, and your Step 2 CK is validated. 17 When would you anticipate taking Step 3? 18 A. If I were to get everything 19 validated, it's now, what? January. The 20 match and the scramble process would be 21 at the end of March or middle of March. 22 I would be eligible to be part of that 23 scramble, and dependent on that, I would 24 see where that happens.</p>

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1 If that does not happen I
2 would try to take my Step 3 before
3 September because September is when you
4 start applying for the next year, 2015
5 match.

6 Q. You had noted before in our
7 discussion that you had difficulty
8 matching or scrambling because of your
9 multiple test attempts?

10 A. That is correct.

11 Q. How do you see that being
12 different now?

13 A. I have many more connections
14 now. People know me on an individual
15 basis as well as a work ethic, and they'd
16 probably take the gamble on me.

17 Q. Which places do you think
18 you'd be likely to match at?

19 A. I prefer not to say, to be
20 honest.

21 Q. Is there a reason why not?

22 A. Just prefer not to say.

23 Nothing is written in stone. It's just
24 my assumptions, so I don't want to put

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1 A. I think the range goes
2 anywhere from 35,000 to, like, 70,000,
3 depending, I think. I mean, the numbers
4 have changed over the years. I mean,
5 getting 52,000 a year was a big deal back
6 four, five years ago.

7 Q. And so that would be
8 substantially less than money than you're
9 making now?

10 A. Yes, it was, but in the
11 long-run, three years down the road I
12 make 150, 200,000 so...

13 Q. So if you were to go into
14 residency, how long would residency last?

15 A. If I do family
16 practice/internal medicine, three years.
17 If I specialize afterwards, two more
18 years. If I get lucky and get into rehab
19 or one of the more specialized, three to
20 five years. All depends on fellowship,
21 et cetera.

22 Q. And what are some of the
23 hurdles that you expect to face now in
24 your journey to become a doctor?

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1 any assumptions on the record.

2 Q. Are those places in New
3 York?

4 A. Yes. There are some in New
5 York.

6 Q. Are they all in New York?

7 A. No.

8 Q. Where are the other ones?

9 A. There's some, one or two in
10 Texas.

11 Q. So you would be willing to
12 move your family?

13 A. For my career, I would move.
14 My family would probably stay behind.

15 Q. Your wife and your children
16 would stay behind?

17 A. We have a stepson custody
18 situation. She's not going to leave him,
19 so I would make the trips.

20 Q. How much money would you
21 make as a resident?

22 A. As a resident? Not too
23 much.

24 Q. How much do you think?

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1 A. What hurdles? Obviously,
2 one, getting through this case; second is
3 having someone accept me with a residency
4 position and, obviously, Step 3.

5 Q. Are you at all concerned
6 about the fact that you have not been in
7 school or studying medicine in any
8 formalized setting?

9 A. I am not concerned about not
10 being in school. I'm more concerned
11 about the amount of time given the jobs
12 that I take, but come -- if I were to go
13 down the road and get everything settled,
14 come the end of the semester, I would
15 take a leave of absence from all three
16 jobs and just focus on studying like I
17 did in 2007.

18 Q. Are you at all concerned
19 about the medical school that you
20 graduated from not being recognized as an
21 accredited medical school?

22 A. My understanding was that it
23 was part of the WHO book. There are
24 students who have graduated and are done

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<p>1 their residency today or have completed 2 residency, so I don't find it to be an 3 issue unless there's something I don't 4 know about. I haven't really followed 5 up. 6 Q. Have you Googled your 7 medical school lately? 8 A. No, I have not. 9 Q. But you are aware that there 10 are some issues with regard to its 11 accreditation? 12 A. I had no idea, to be honest. 13 Q. You didn't have any idea? 14 A. No. 15 Q. Until I just said something? 16 A. Until you just said 17 something. 18 Q. So what did you understand 19 about the WHO book? 20 A. That they've been in the -- 21 WHO has the book and I've always seen it 22 in the book. I mean, when I graduated 23 and looked up the school it was in the 24 book, so if it's been taken out since, I</p>	<p>1 time to do all that all over again, to be 2 very honest. It would be -- it would 3 have to be a discussion I take. 4 Q. And do you have an alternate 5 plan? 6 A. Well, right now, I'm 7 working. Continue doing what I'm doing. 8 Q. I'll just take you through 9 the documents that we brought, and we'll 10 call these Exhibit 57. 11 A. I don't know what order 12 they're in, to be honest. 13 Q. All of ours should be in the 14 same order. The top is your response to 15 my notice of deposition? 16 A. Correct. 17 Q. So let's look at them 18 side-by-side. So Exhibit 4, I believe it 19 was, is the notice of dep? 20 A. Yes. 21 Q. And on the second page of 22 Exhibit 4, number one is score reports? 23 A. Which I have. As I said 24 before, I don't know if all of them are</p>
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<p>1 have no knowledge of that. 2 Q. So you are not aware that in 3 some states it's not a recognized medical 4 program? 5 A. No. I guess that's a new 6 hurdle. 7 Q. If you're not successful in 8 this case in convincing the Court that 9 you should have your Step 2 CK validated, 10 are you prepared to take that examination 11 again? 12 A. I'd have to think it over 13 and talk to my family regarding that, to 14 be very honest. 15 Q. And if Step 1 had to be 16 taken again, are you prepared to take 17 Step 1 again? 18 A. With the new score being -- 19 so, in other words, right now I have a 20 75, so if I did better I may be open to 21 it, but that basically means I'm doing 22 everything all over again. So I don't 23 know if I have the ability with the full 24 family and kid on the way to have all the</p>	<p>1 here, but the majority of them should be 2 here for Step 1, Step 2 CK and Step 2 CS. 3 Q. Number two, registration 4 materials that relate to exam steps, you 5 write: Plaintiff does not have paper 6 copies of his registration. 7 A. I don't keep any of that 8 stuff. That's usually done online 9 anyway. 10 Q. Number three, USMLE 11 transcript listing all Step attempts and 12 scores. You never had a transcript? 13 A. I never ordered a 14 transcript. You have to order and pay 15 \$50 for it. Never did. 16 Q. Number four, written 17 correspondence, you say see enclosed 18 correspondence? 19 A. Yeah. I put in the letters 20 in between us. A lot of the stuff that's 21 in your... 22 Q. Number five, written 23 communications aside from writings to 24 your lawyer pertaining -- not that you</p>

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1 have a lawyer but anyone you've consulted
 2 with as a lawyer.
 3 A. I haven't talked to anyone
 4 else regarding these issues.
 5 Q. Number six, application and
 6 course registration materials to study at
 7 any prep course?
 8 A. I have nothing that I kept.
 9 Q. And number seven, any
 10 documents illustrating that Mathew
 11 Thomas, Jr. has been or currently is
 12 employed by Optima University including,
 13 but not limited to, pay stubs.
 14 You wrote you're not
 15 currently employed, but what about with
 16 regard to your prior employment then?
 17 A. He wasn't giving us pay
 18 stubs. He was basically just paying
 19 us -- paid me cash or personal checks so
 20 there was no stub attached.
 21 Q. Did you find that odd?
 22 A. No, because at that point,
 23 honestly, I was a med student, no job,
 24 broke. You take what you can get so --

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1 that you've worked?
 2 A. That's all on CV.
 3 Q. Good. Number 11, any and
 4 all employment applications, you
 5 indicated you do not have those?
 6 A. No.
 7 Q. And number 12, a list of
 8 places that you were ever enrolled as a
 9 student?
 10 A. Yeah. There was one typo,
 11 the master's, which I noticed right
 12 before I came here, so I had to fix that.
 13 Q. Well, tell us about that.
 14 You did. You fixed it?
 15 A. I fixed it. Yeah. I guess
 16 I didn't read it over when I printed it
 17 out.
 18 Q. You wrote the word Joseph
 19 instead of Matthew's?
 20 A. Yeah.
 21 Q. And number 13, federal
 22 income tax returns, you wrote not
 23 applicable or relative to the time frame
 24 of this matter?

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1 and I wasn't working as a regular job
 2 every single day so...
 3 Q. Right, but you were working
 4 at Kaplan, though, right?
 5 A. I wasn't getting the hours
 6 at that point because it was only
 7 Saturdays, and because they don't run the
 8 course all the time, especially towards
 9 the summer, I wasn't really...
 10 Q. Did you pay income taxes on
 11 the money that you made as a result of
 12 working at Optima?
 13 A. No.
 14 Q. Number eight was Optima
 15 promotion or study materials, you wrote
 16 that you don't have any of those?
 17 A. He never gave out any
 18 materials.
 19 Q. It was just a question bank?
 20 A. It was just a question bank.
 21 Q. Number nine, curriculum
 22 vitae you've enclosed?
 23 A. Yes.
 24 Q. Number ten, a list of places

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1 A. Yes.
 2 Q. What's the reason that you
 3 wrote that?
 4 A. I'm not understanding why,
 5 what it has to do with me validating or
 6 invalidating my exam.
 7 Q. But regardless of that, you
 8 did not bring those items with you?
 9 A. I did not.
 10 Q. So let's go through -- okay.
 11 It looks to be your resume here?
 12 A. Yeah. My CV. The two
 13 missing on the CV right now are the
 14 nursing school and the MCNY because I
 15 didn't really update it with those.
 16 Q. Is Optima University on
 17 here?
 18 A. No.
 19 Q. Why not?
 20 A. Because I never took that as
 21 a thing. Plus, it's a negative. It's a
 22 negative thing. I'm not trying to not
 23 get a job if I'm putting my resume out
 24 there.

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<p>1 Q. Right. Is there anything 2 else that's missing? Any other 3 negatives? 4 A. No. I think all my 5 other -- I mean, like I said, like the 6 small jobs, like I said, when I was at 7 Edwards and doing the security job at 8 Stony Brook, those small jobs I haven't 9 put on here. 10 These are basically my 11 full-time regular jobs that have any kind 12 of experience that will give me a 13 possibility of employment, future 14 employment. 15 Q. Have you ever had any 16 problems with discrimination in the 17 workplace? 18 A. No. I'm actually a very 19 good worker. Most people like me. 20 Q. But, I mean, you've never 21 had any grievances or anything like that 22 and complaints at work? 23 A. The only grievance I had is 24 a union grievance at TCI basically</p>	<p>1 Boards? 2 A. I believe that's the letter 3 that says -- yeah. My Step 3 exam was 4 canceled in July. 5 Q. And the February 17th 6 letter, March 4th letter? 7 A. That's also the letter that 8 I got from ECFMG. 9 Q. Then your written appeal, 10 right? 11 A. That's correct. 12 Q. In the margins of the August 13 25th letter what does that say? 14 A. August 25th included who? 15 Q. Oh, I see. I think you 16 wrote may have. It says there is 17 evidence that 32 percent of the scored 18 items may have? 19 A. May have, yeah. 20 Q. We see your score report 21 from December 31st, 2007? 22 A. That was this. 23 MS. HOLLAND: Let's take a 24 short break.</p>
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<p>1 because I wasn't given the amount of 2 hours I'm entitled to and seniority 3 issues with someone else who was given 4 classes before me even though I had 5 seniority. Other than that, I don't 6 remember having any HR issues or 7 grievance issues. 8 Q. So the next items appear to 9 be -- this appears to be the September 10 15th, 2009 letter, right? 11 A. I think these are just the 12 letters that go back and forth. 13 Q. Policies and procedures? I 14 see that there's some handwritten notes 15 on here. Are those notes that you made? 16 A. Yeah. Those are notes I 17 made as I was making my appeal. 18 Q. Did anyone else make notes 19 on here or is it all your writing? 20 A. No. I think this is all my 21 writing where I focused on in my appeal 22 and then it goes into the appeal. 23 Q. Right. So you have on here 24 also the Federation of State Medical</p>	<p>1 (A short break was taken.) 2 * * * 3 EXAMINATION 4 BY MS. McENROE: 5 Q. Dr. Thomas, we've met 6 before. Again, my name is Elisa McEnroe. 7 I represent the Educational Commission 8 for Foreign Medical Graduates also known 9 as ECFMG. You understand that, correct? 10 A. That's correct. 11 Q. I'm going to try and not 12 cover too much of the same ground as 13 we've covered today but want to ask a 14 couple of questions to clarify some 15 things and also in particular with ECFMG. 16 Understand? 17 A. Okay. 18 Q. As a brief overview of the 19 sequence of events with respect to your 20 indeterminate Step 2 CK exam score, would 21 it be fair to say that you were given an 22 opportunity to appear in person before 23 the USMLE committee? 24 A. Yes.</p>

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1 Q. And it would be fair to say
2 that you were given the opportunity to
3 provide documentation to that committee?

4 A. Yes.

5 Q. Would it be fair to say you
6 were given an opportunity to bring
7 counsel to that appearance?

8 A. Yes.

9 Q. Following that appearance
10 you were informed that your score was
11 determined to be indeterminate. Is that
12 correct?

13 A. That's correct.

14 Q. You were also then given an
15 opportunity to have a period initially of
16 six months in which to take a validating
17 exam. Is that correct?

18 A. I had the opportunity to
19 appeal before the validating exam.

20 Q. And you did, in fact, appeal
21 the determination of the USMLE committee,
22 correct?

23 A. Yes, I did.

24 Q. And you were given the

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1 exception for the six-attempt rule from
2 USMLE for the Step 2 CK. Is that
3 correct?

4 A. It was discussed. I don't
5 remember exactly if it was put that way.
6 I think it was just a generic six-attempt
7 and seven-year exception.

8 Q. You did give a request to
9 ECFMG for an exception to the seven-year
10 rule. Is that correct?

11 A. That's correct.

12 (Whereupon, a document was
13 marked for identification as
14 Exhibit No. 58.)

15 BY MS. McENROE:

16 Q. What I've just handed you
17 I've marked as Exhibit 58 for continuity
18 from what we marked as Exhibit 57.

19 You'll see it's a
20 document with a first -- we call Bates
21 stamp which is the little number on the
22 bottom. That's ECFMG 000627 through 646
23 and it's double-sided. Do you see that?

24 A. Yes.

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1 result of that appeal, correct?

2 A. Yes.

3 Q. Following that appeal, you
4 were then given six months to take the
5 validating exam, correct?

6 A. That is correct.

7 Q. Ultimately, you were given
8 over a year to take a validating exam,
9 correct?

10 A. Yes.

11 Q. That validating exam was
12 given to you without an exam fee. Is
13 that correct?

14 A. That is correct.

15 Q. You failed the validating
16 exam, correct?

17 A. That's correct.

18 Q. You did not request a formal
19 exception from the USMLE for the
20 six-attempt rule with respect to Step 2
21 CS. Is that correct? CK, rather. Is
22 that correct?

23 A. I'm sorry. Say that again.

24 Q. You did not request an

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1 Q. At the top it says ECFMG
2 Medical Education Credentials Committee
3 meeting exception request and then it
4 says ECFMG Medical Education Credentials
5 Committee, April 17th, 2013. Do you see
6 that?

7 A. Where exactly are you
8 looking?

9 Q. At the very top.

10 A. Okay. Yes.

11 Q. This document was provided
12 to you from ECFMG in discovery in this
13 matter. Is that correct? Do you recall
14 having seen this before?

15 A. I believe so. I've looked
16 at so many different things. Yes.

17 Q. Well, let's walk through it
18 together, if you would. At the top it
19 says name and USMLE/ECFMG ID number. It
20 says Mathew Thomas. That's you, correct?

21 A. That's correct.

22 Q. Then underneath it, it says
23 Ross University, St. Matthew's University
24 and St. Christopher?

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<p>1 A. That's correct.</p> <p>2 Q. Is that information</p> <p>3 contained in that box with the years</p> <p>4 accurate?</p> <p>5 A. That is correct.</p> <p>6 Q. Thereafter, there's a box</p> <p>7 that says ECFMG certification status, and</p> <p>8 it says ECFMG certificate issued January</p> <p>9 24th, 2008. Does that sound right to</p> <p>10 you?</p> <p>11 A. That's correct.</p> <p>12 Q. And then it says ECFMG</p> <p>13 certificate rendered invalid March 4th,</p> <p>14 2010. Does that sound correct to you?</p> <p>15 A. I'm not sure exactly when</p> <p>16 they invalidated.</p> <p>17 Q. Let's flip to within the</p> <p>18 documents you provided to us today which</p> <p>19 is Exhibit 57. There's a letter dated</p> <p>20 March 4th, 2010 from ECFMG. Let me know</p> <p>21 when you've found it.</p> <p>22 A. Sure. Got it.</p> <p>23 Q. And that letter is addressed</p> <p>24 to you?</p>	<p>1 Thomas is requesting an exception to the</p> <p>2 ECFMG policy requirement that applicants</p> <p>3 must pass those USMLE Steps and Step</p> <p>4 components required for ECFMG</p> <p>5 certification within a seven-year period.</p> <p>6 Did I read that correctly?</p> <p>7 A. That is correct.</p> <p>8 Q. Is that consistent with what</p> <p>9 you recall requesting an exception for?</p> <p>10 A. That was the first</p> <p>11 exception, yes.</p> <p>12 Q. Have you had subsequent</p> <p>13 exception requests?</p> <p>14 A. The intent was to also</p> <p>15 request for the six-attempt as a second</p> <p>16 waiver.</p> <p>17 Q. Do you understand that the</p> <p>18 ECFMG has the seven-year rule, but NBME</p> <p>19 has the six-attempt rule?</p> <p>20 A. Yes.</p> <p>21 Q. Have you made any additional</p> <p>22 requests except for this present one</p> <p>23 being discussed with respect to the</p> <p>24 seven-year rule to ECFMG?</p>
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<p>1 A. Yes.</p> <p>2 Q. Dated March 4th, 2010?</p> <p>3 A. That's correct.</p> <p>4 Q. And it's signed by Ms. Kara</p> <p>5 Corrado from ECFMG, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And this letter provides</p> <p>8 that the USMLE has determined that your</p> <p>9 Step 2 CK score from December 31st, 2007</p> <p>10 was indeterminate, therefore, making your</p> <p>11 ECFMG certificate invalid.</p> <p>12 A. That's what's written on the</p> <p>13 bottom. Is that what you're focusing on?</p> <p>14 Q. I was paraphrasing. That's</p> <p>15 the general content of the letter?</p> <p>16 A. Yes.</p> <p>17 Q. Going back to Exhibit 58.</p> <p>18 Then you see it says ECFMG certificate</p> <p>19 rendered invalid March 4th, 2010. Does</p> <p>20 that appear to be correct having looked</p> <p>21 at that letter?</p> <p>22 A. That's correct.</p> <p>23 Q. Then under that there's a</p> <p>24 request for exception and it reads: Dr.</p>	<p>1 A. No. This is the only one to</p> <p>2 ECFMG.</p> <p>3 Q. A little further down you'll</p> <p>4 see underneath those boxes on the first</p> <p>5 page of the Exhibit 58 it says: Dr.</p> <p>6 Thomas is requesting an exception to the</p> <p>7 ECFMG policy requirement that applicants</p> <p>8 must pass those USMLE Steps and Step</p> <p>9 components required for ECFMG</p> <p>10 certification within a seven-year period.</p> <p>11 Did I read that correctly?</p> <p>12 A. That's correct.</p> <p>13 Q. There's then a discussion of</p> <p>14 the ECFMG policy. Do you see where that</p> <p>15 is?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Can you please read that</p> <p>18 paragraph to yourself and then let me</p> <p>19 know if that's consistent with your</p> <p>20 understanding?</p> <p>21 A. That coincides with what I</p> <p>22 know.</p> <p>23 Q. So to paraphrase, it would</p> <p>24 be fair to say that in order to become</p>

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1 ECFMG certified, an applicant needs to
 2 pass Step 1, Step 2 CK and Step 2 CS
 3 within a period of exactly seven years?
 4 A. Yes.
 5 Q. So within seven years of the
 6 first passing date?
 7 A. Yes.
 8 Q. And you understood that at
 9 the time when you were making this
 10 request?
 11 A. Yes.
 12 Q. I'd like to direct your
 13 attention ahead to the second page in
 14 that exhibit where there's a chart of
 15 your examination history?
 16 A. Yes.
 17 Q. Please take a look at that
 18 chart and let me know if you see anything
 19 that does not look accurate to you?
 20 A. That seems accurate.
 21 Q. So if I may summarize,
 22 looking first at just Step 1?
 23 A. Yes.
 24 Q. You've taken Step 1 seven

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1 A. That's correct.
 2 Q. Looking at Step 2 CK, you've
 3 taken that exam six times for what's
 4 recorded here. Is that correct?
 5 A. That's correct.
 6 Q. Would it be fair to say you
 7 also took a validating exam?
 8 A. Yes.
 9 Q. So you've taken Step 2
 10 CK -- you've sat for that exam seven
 11 times?
 12 A. That's correct.
 13 Q. The only instance in which
 14 you had a passing score reflected was on
 15 the administration of Step 2 CK on
 16 December 31st 2007. Is that correct?
 17 A. That's correct.
 18 Q. And that's the score we've
 19 been discussing today as having been
 20 deemed indeterminate. Is that correct?
 21 A. Yes.
 22 Q. And as of this past December
 23 31st, that was just a couple weeks back,
 24 that was about six years ago, correct?

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1 times, correct?
 2 A. Correct.
 3 Q. The first time was in May
 4 2002 and the last time was in February
 5 2006?
 6 A. Correct.
 7 Q. You ultimately passed on
 8 February 14th, 2006, correct?
 9 A. That's correct.
 10 Q. As of this coming February
 11 that will have been eight years ago. Is
 12 that correct?
 13 A. The Step 1.
 14 Q. For Step 1?
 15 A. That is correct.
 16 Q. Looking at Step 2 CS, it
 17 appears you've taken that exam one time,
 18 January 12th, 2005, and you passed that
 19 exam. Is that correct?
 20 A. That's correct.
 21 Q. So as of this coming January
 22 12th, which is just two days from now,
 23 that will have been nine years ago. Is
 24 that correct?

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1 A. That is correct.
 2 Q. And you have not yet taken
 3 Step 3?
 4 A. No.
 5 Q. You indicated some intention
 6 to practice medicine in New York --
 7 A. Yes.
 8 Q. -- in the future?
 9 A. Yes.
 10 Q. Do you have an understanding
 11 of what New York State's requirements are
 12 in order to become licensed with respect
 13 to the USMLE?
 14 A. I don't know what the
 15 current regs are.
 16 Q. You mentioned some intention
 17 to become licensed to practice medicine
 18 potentially in Texas?
 19 A. Yes.
 20 Q. Do you have any
 21 understanding of what the State of
 22 Texas's requirements are with respect to
 23 the USMLE?
 24 A. I have not looked into it

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<p>1 recently.</p> <p>2 Q. What steps have you taken to</p> <p>3 prepare for trying to enter the practice</p> <p>4 of medicine?</p> <p>5 A. Well, I did look into these</p> <p>6 things years ago, but since the rules</p> <p>7 change all the time, I haven't updated it</p> <p>8 because everything has been pending since</p> <p>9 2000 -- basically 2008, 2009.</p> <p>10 Q. Have you taken any steps to</p> <p>11 keep your medical knowledge up to date?</p> <p>12 A. Yes. I do teach courses at</p> <p>13 the nursing school as well as other</p> <p>14 schools. I do tutoring on the side</p> <p>15 sometimes.</p> <p>16 Q. Have you done work to</p> <p>17 prepare to have the knowledge that you</p> <p>18 would need to have from, for example,</p> <p>19 Step 1 of the USMLE?</p> <p>20 A. Recently?</p> <p>21 Q. Yes.</p> <p>22 A. No.</p> <p>23 Q. What about with respect to</p> <p>24 Step 2 CK?</p>	<p>1 which I would like to start at the back</p> <p>2 of it which should be at the beginning of</p> <p>3 the e-mail chain, so on the page with the</p> <p>4 Bates stamp ending in 609. See that at</p> <p>5 the bottom?</p> <p>6 A. Yes.</p> <p>7 Q. There's an e-mail to Kara</p> <p>8 Corrado from manu.thomas.31@gmail.com</p> <p>9 which I believe we confirmed is your</p> <p>10 e-mail address?</p> <p>11 A. Yes.</p> <p>12 Q. And it's dated February 8th,</p> <p>13 2013 and you're copying Rebecca</p> <p>14 Robichaud?</p> <p>15 A. That's correct.</p> <p>16 Q. The subject matter is legal</p> <p>17 representation, and you write: Kara,</p> <p>18 this e-mail is to certify that Rebecca A.</p> <p>19 Robichaud is authorized to speak on my</p> <p>20 behalf, and you can release any</p> <p>21 information regarding my case to Ms.</p> <p>22 Robichaud. Thank you for your</p> <p>23 cooperation.</p> <p>24 Is that correct?</p>
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<p>1 A. I think Step 2 CK I have the</p> <p>2 knowledge because it's clinical, and</p> <p>3 because I am surrounded in the hospital</p> <p>4 setting, I do hear about cases and</p> <p>5 discuss things, so I have somewhat of a</p> <p>6 knowledge of some of the changes.</p> <p>7 Q. What about Step 2 CS?</p> <p>8 A. I still do clinical skills,</p> <p>9 tutoring on the side sometimes if anyone</p> <p>10 needs help, so those skills have stayed</p> <p>11 intact.</p> <p>12 Q. We discussed just a little</p> <p>13 while ago your request for an exception</p> <p>14 to ECFMG's seven-year rule?</p> <p>15 A. Yes.</p> <p>16 Q. I'd like to walk through</p> <p>17 that chronology. I'm going to hand you a</p> <p>18 document that I will be marking as</p> <p>19 Exhibit 59.</p> <p>20 (Whereupon, a document was</p> <p>21 marked for identification as</p> <p>22 Exhibit No. 59.)</p> <p>23 BY MS. McENROE:</p> <p>24 Q. This is an e-mail chain</p>	<p>1 A. Correct.</p> <p>2 Q. Who is Kara Corrado?</p> <p>3 A. Kara? Kara works under Bill</p> <p>4 Kelly from what I understand works at</p> <p>5 ECFMG.</p> <p>6 Q. And you understood when you</p> <p>7 were e-mailing her that she works at</p> <p>8 ECFMG?</p> <p>9 A. Yes.</p> <p>10 Q. And you mentioned Bill</p> <p>11 Kelly. You also understood he works at</p> <p>12 ECFMG?</p> <p>13 A. Yes.</p> <p>14 Q. Flipping to the first page</p> <p>15 in this e-mail chain is an e-mail from</p> <p>16 Rebecca Robichaud to Bill Kelly sent on</p> <p>17 February 8th, 2013. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And she writes: Bill, thank</p> <p>20 you again for taking the time to talk to</p> <p>21 me today regarding Dr. Thomas. As we</p> <p>22 discussed, the key issue is that because</p> <p>23 of his appeal pending with USMLE, Dr.</p> <p>24 Thomas was unable to re-take his Step 2</p>

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1 examination and the appeal lasted over
2 four years.

3 This loss of time during the
4 appeals process has now affected Dr.
5 Thomas's ability to complete his Step 2
6 examination within seven years of passing
7 his Step 1 examination as required by
8 ECFMG.

9 It is my understanding from
10 our conversation that the only way to
11 obtain a waiver to the seven-year
12 requirement is by submitting a written
13 request to the credentialing committee of
14 ECFMG which does not meet again until
15 April 2013.

16 Did I read that correctly?

17 A. That's correct.

18 Q. And that's the request for
19 an exception to the seven-year rule we've
20 been discussing?

21 A. That's correct.

22 Q. And that was a request made
23 on your behalf, correct?

24 A. Yes.

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1 dated February 17th, 2010 from USMLE, the
2 August 25th, 2000 letter from USMLE --

3 A. Yes.

4 Q. -- to you and, ultimately,
5 the October 17th, 2011 letter from the
6 USMLE indicating that you had not passed
7 the validating exam, correct?

8 A. That's correct.

9 Q. So your letter to the ECFMG
10 was dated March 27th, 2013, correct?

11 A. I'm sorry. Say that again,
12 please.

13 Q. Your letter to the ECFMG
14 credentialing committee was dated March
15 27th, 2013, correct?

16 A. That's correct.

17 Q. I'm going to hand you what I
18 will mark as Exhibit 60.

19 (Whereupon, a document was
20 marked for identification as
21 Exhibit No. 60.)

22 BY MS. McENROE:

23 Q. What I just handed you is an
24 April 1st, 2013 ECFMG letter to you,

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1 Q. Going back to what I had
2 given you as Exhibit No. 58 which is the
3 ECFMG document we were looking at?

4 A. Yes.

5 Q. Attached thereto is included
6 a letter dated March 27th, 2013.

7 A. Yes.

8 Q. Do you see that?

9 That begins on the page with
10 a Bates number ending in 630?

11 A. That's correct.

12 Q. And this is a letter from
13 you to the credentialing committee at
14 ECFMG. Is that correct?

15 A. That's correct.

16 Q. And you included with that a
17 number of exhibits for attachments, if we
18 can take a look at the letter. You'll
19 see you included a copy of your passing
20 Step 2 CK report, the letter from FSMB.

21 A. Step 3.

22 Q. The cover page from your
23 personal appearance at the USMLE
24 committee, the letter that you received

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1 correct?

2 A. Correct.

3 Q. And it starts by saying:

4 Dear Dr. Thomas, this will acknowledge
5 receipt of your request for an exception
6 to the ECFMG policy requirements that
7 applicants must pass those USMLE Steps
8 and Step components required for ECFMG
9 certification within a seven-year period?

10 A. That's correct.

11 Q. And you received this
12 letter. Is that correct?

13 A. Yes, I did.

14 Q. The letter goes on to say:

15 While you have not specified the length
16 of the additional time beyond seven years
17 you are requesting, it appears you is
18 asking for an additional two years and
19 three months, the amount of time you
20 write that you were prevented from taking
21 the USMLE exam due to an investigation by
22 the USMLE program surrounding the
23 validity of your score on the December
24 21st, 2007 Step 2 CK.

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<p>1 Did I read that correctly?</p> <p>2 A. That is correct.</p> <p>3 Q. Did you understand that to</p> <p>4 pertain to your December 31st, 2007</p> <p>5 score?</p> <p>6 A. Yes.</p> <p>7 Q. And is that indeed the</p> <p>8 length of time you were requesting for an</p> <p>9 exception?</p> <p>10 A. Approximately.</p> <p>11 Q. And do you have an</p> <p>12 understanding that the ECFMG committee</p> <p>13 did consider your request?</p> <p>14 A. Yes.</p> <p>15 Q. And what I have given you as</p> <p>16 Exhibit 58 is information for the ECFMG</p> <p>17 Medical Education Credentials Committee</p> <p>18 regarding your request, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you will see that that</p> <p>21 included your letter to ECFMG regarding</p> <p>22 this matter dated March 27th, 2013?</p> <p>23 A. Yes.</p> <p>24 (Whereupon, a document was</p>	<p>1 Did I read that accurately?</p> <p>2 A. Yes, you did.</p> <p>3 Q. Did you receive this letter?</p> <p>4 A. Yes, I did.</p> <p>5 Q. So it would be fair to</p> <p>6 summarize that with respect to your</p> <p>7 request to ECFMG for an exception to the</p> <p>8 seven-year rule, you had counsel make</p> <p>9 that request on your behalf?</p> <p>10 A. Yes.</p> <p>11 Q. You then wrote a letter</p> <p>12 fully explaining your request and</p> <p>13 attaching documentation?</p> <p>14 A. Yes.</p> <p>15 Q. That letter and</p> <p>16 documentation and additional relevant</p> <p>17 information including, for example, your</p> <p>18 score exam history was provided to the</p> <p>19 ECFMG Medical Education Credentials</p> <p>20 Committee, correct?</p> <p>21 A. Yes.</p> <p>22 Q. The Medical Education</p> <p>23 Credentials Committee then considered</p> <p>24 your request, correct?</p>
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<p>1 marked for identification as</p> <p>2 Exhibit No. 61.)</p> <p>3 BY MS. McENROE:</p> <p>4 Q. I'm handing you what has</p> <p>5 been marked as Exhibit 61. And this is</p> <p>6 an April 25th, 2013 letter from ECFMG to</p> <p>7 you with a Bates number of ECFMG 615,</p> <p>8 informing you that the ECFMG Medical</p> <p>9 Education Credentials Committee has</p> <p>10 completed its review of your request for</p> <p>11 an exception to the ECFMG policy</p> <p>12 requirement that applicants must pass</p> <p>13 those USMLE Steps and Step components</p> <p>14 required for the ECFMG certification</p> <p>15 within a seven-year period.</p> <p>16 The ECFMG committee reviewed</p> <p>17 this matter at its April 17th, 2013</p> <p>18 meeting. Following careful review, the</p> <p>19 ECFMG committee took action to deny your</p> <p>20 request for an individual exception to</p> <p>21 the ECFMG credential requirement that</p> <p>22 applicants must pass those USMLE Steps</p> <p>23 and Step components required for ECFMG</p> <p>24 certification within a seven-year period.</p>	<p>1 A. Yes.</p> <p>2 Q. And that exception was</p> <p>3 denied?</p> <p>4 A. Yes.</p> <p>5 Q. I'd like to move briefly</p> <p>6 through the claims you bring in this</p> <p>7 case --</p> <p>8 A. Yes.</p> <p>9 Q. -- to make sure that I'm</p> <p>10 clear on which claims you're bringing</p> <p>11 with respect to ECFMG.</p> <p>12 So earlier today we</p> <p>13 discussed your complaint and your amended</p> <p>14 complaint --</p> <p>15 A. Yes.</p> <p>16 Q. -- which are included in the</p> <p>17 binder of documents in front of you at</p> <p>18 tabs 1 and 2, and you articulated the</p> <p>19 following claims. First, you said</p> <p>20 discrimination, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And you said that that</p> <p>23 discrimination was based on the fact that</p> <p>24 you had been an Optima student, correct?</p>

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1 A. Yes.

2 Q. Are you saying that
3 discrimination is based on anything else?

4 A. I think also it's based on
5 my test exam history, the amount of
6 attempts I've taken over the years.

7 Q. Anything else?

8 A. I guess to a point it may
9 also be the notion that I switched
10 schools so much, whether it's assumed
11 that it was because of reasons that they
12 kicked me out versus me choosing to
13 leave.

14 Q. Anything else?

15 A. No. I think that's about
16 it.

17 Q. So your discrimination claim
18 is based on your allegations that you
19 were discriminated against based on being
20 an Optima student, on your attempt
21 history of examination history, on your
22 having switched medical schools?

23 A. And working for him.

24 Q. And working for him?

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1 Medical Education Credentials Committee
2 was provided with your accurate exam
3 history when considering your exception
4 request?

5 A. I think also the fact that
6 ECFMG was present, had a member present
7 at the score validity exam. All contents
8 that were said at that hearing including
9 my employment with Optima and me being a
10 student there may also have led
11 to -- because I'm unaware of who actually
12 sits on that committee, but I think Bill
13 Kelly may have even been at that initial
14 hearing.

15 Q. Are you alleging that ECFMG
16 has done anything specifically to you to
17 discriminate against you?

18 A. I think the decision was
19 made based on a discriminatory matter,
20 not personally to affect me, but the
21 decision they took in terms of extending
22 was based on the history, all the history
23 given.

24 Q. Aside from the decision not

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1 A. Not just being a student but
2 I think predominantly working for him
3 after my exam.

4 Q. And who are you alleging has
5 discriminated against you on these bases?

6 A. I believe that the NBME
7 definitely has. The ECFMG may have to a
8 point given the request that was given
9 with all the attempts may have tainted
10 the opinion of the committee.

11 Q. Would it be fair to describe
12 your discrimination complaint against
13 ECFMG as solely being related to the fact
14 that in connection with its consideration
15 of your request for an exception to the
16 seven-year rule, ECFMG was aware of your
17 exam history?

18 A. You might have to rephrase
19 that.

20 Q. Sure. I don't mind asking
21 it again.

22 Would it be fair to say that
23 your discrimination claim against ECFMG
24 solely relates to the fact that the ECFMG

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1 to grant your exception request, are you
2 alleging that ECFMG discriminated against
3 you?

4 A. No.

5 Q. The next cause of action you
6 articulated earlier today was what you
7 described as false accusations?

8 A. I believe that's more of
9 NBME.

10 Q. The third cause of action
11 you articulated earlier today was
12 defamation. Does that pertain to ECFMG?

13 A. I think that's mainly NBME
14 as well.

15 Q. The fourth cause of action
16 you articulated earlier today was with
17 respect to the First Amendment. You
18 claimed a violation of your freedom of
19 association?

20 A. I think there is a slight
21 stereotype based on that.

22 Q. What do you mean by that?

23 A. Meaning that if I was not an
24 Optima student nor had worked for Optima

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<p>1 and I had asked for a waiver based on the</p> <p>2 fact that an appeal had taken, I think</p> <p>3 ECFMG may have granted it.</p> <p>4 Q. Would it be fair to say that</p> <p>5 your allegation against ECFMG with</p> <p>6 respect to the alleged violation of your</p> <p>7 First Amendment right to associate freely</p> <p>8 pertains only to ECFMG's decision to deny</p> <p>9 your exception request?</p> <p>10 A. Yes.</p> <p>11 Q. Anything else?</p> <p>12 A. No. I think that was</p> <p>13 basically it.</p> <p>14 Q. Additional cause of action,</p> <p>15 the fifth one you named earlier was</p> <p>16 negligence for failing to warn about</p> <p>17 Optima. Does that pertain to ECFMG?</p> <p>18 A. I think that was an NBME</p> <p>19 issue as well.</p> <p>20 Q. The sixth you had mentioned</p> <p>21 was what you described as guilt by</p> <p>22 association?</p> <p>23 A. I think there's a slight,</p> <p>24 again, in the decision-making. I think</p>	<p>1 process, you're distinguishing that from</p> <p>2 the exception request process. Is that</p> <p>3 correct?</p> <p>4 A. That's correct. The</p> <p>5 exception request all came to fruition</p> <p>6 when the six-year rule came into effect,</p> <p>7 and the dates kind of affected whether or</p> <p>8 not I could retake the exam so that would</p> <p>9 be late 2011.</p> <p>10 Q. As we just walked through</p> <p>11 the chronology, you would agree that</p> <p>12 ECFMG took your request for an exception</p> <p>13 to the seven-year rule seriously?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Besides what I've</p> <p>16 articulated and that we've talked about</p> <p>17 so far this afternoon, do you have any</p> <p>18 other claims against ECFMG?</p> <p>19 A. No.</p> <p>20 Q. Are you seeking money</p> <p>21 damages?</p> <p>22 A. I have yet to decide that.</p> <p>23 Q. Do you feel that you have a</p> <p>24 monetary loss that you can quantify that</p>
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<p>1 it comes up as a factor in their</p> <p>2 decision.</p> <p>3 Q. What do you mean by that?</p> <p>4 A. Meaning that, again, had I</p> <p>5 been an employee of just Kaplan</p> <p>6 University asking, I don't think they</p> <p>7 would have seen it as they saw it, me</p> <p>8 being an employee at Optima.</p> <p>9 Q. Does that pertain -- strike</p> <p>10 that.</p> <p>11 Does your allegation against</p> <p>12 ECFMG with respect to what you're</p> <p>13 describing as guilt by association</p> <p>14 pertain solely to ECFMG's decision not to</p> <p>15 grant your exception request?</p> <p>16 A. Yes.</p> <p>17 Q. You mentioned earlier today</p> <p>18 that you felt that your appeals were not</p> <p>19 taken seriously. Is that true with</p> <p>20 respect to ECFMG?</p> <p>21 A. I don't believe ECFMG was</p> <p>22 involved in the appeal process from the</p> <p>23 invalid score.</p> <p>24 Q. When you're saying appeal</p>	<p>1 you can tell me today how much money you</p> <p>2 feel that you are owed?</p> <p>3 A. I feel if I had gone through</p> <p>4 the process and gotten residency, I've</p> <p>5 lost multiple years of salary and thus</p> <p>6 residency thus and then into a</p> <p>7 physician's career salary. To quantify,</p> <p>8 I'm not really sure.</p> <p>9 Q. You would agree you've been</p> <p>10 working consistently, correct?</p> <p>11 A. I have been working since</p> <p>12 2009, yes.</p> <p>13 Q. Has there been a period of</p> <p>14 unemployment during that time?</p> <p>15 A. No.</p> <p>16 Q. How long from now do you</p> <p>17 anticipate entering the practice of</p> <p>18 medicine?</p> <p>19 A. If everything was resolved?</p> <p>20 Q. Correct.</p> <p>21 A. Within two years. Possibly</p> <p>22 within a year.</p> <p>23 Q. On what basis? What would</p> <p>24 your plan be?</p>

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1 A. My plan is to get in. I
2 think my plan would be to reach out to
3 those people that I know in the business,
4 to reach out to the hospital which I'm
5 working for now and, basically, get my
6 foot in the door, start the process and
7 get whatever they say what I need to get
8 done, get it done.

9 So if they say we can help
10 you but you need Step 3 done, then focus
11 on Step 3. If they say that's not a
12 problem; we can get you in, but within
13 the first year you have to get your Step
14 3 done, then take the position and then
15 get the Step 3 done in a timely manner.

16 Q. You understand that even if
17 your December 31st, 2007 Step 2 CK score
18 were to be deemed valid by federal court,
19 your USMLE transcript would still reflect
20 your full examination history, correct?

21 A. I understand.

22 Q. You understand that would
23 include six attempts and fails of Step 1
24 before you passed on the seventh attempt?

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1 lot more friends that are in residency or
2 finished, so they are willing to reach
3 out and talk on my behalf. And sometimes
4 it's about who you know, not what you
5 know.

6 Q. You would agree, however,
7 that you still need to have the requisite
8 knowledge to become a physician in the
9 United States, correct?

10 A. I believe I have the
11 requisite knowledge to be a physician in
12 the United States.

13 Q. But you'd have to pass Step
14 3?

15 A. Yes. That, I understand.

16 Q. Do you anticipate that
17 entering a residency program in the
18 United States would be an easy thing to
19 do?

20 A. Do you mean getting the
21 residency position or completing
22 residency?

23 Q. Getting the position?

24 A. I believe it's an uphill

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1 A. Yes.

2 Q. And that would include five
3 failures on the Step 2 CK?

4 A. Yes.

5 Q. Do you have connections with
6 any program directors for residency
7 programs?

8 A. I know a lot of people. I'd
9 have to reach out to see if anyone has
10 been promoted to that level.

11 Q. Did you have any of those
12 connections back when you were ECFMG
13 certified?

14 A. No.

15 Q. How did you gain those
16 connections?

17 A. Well, over the years we have
18 people -- obviously, 2007. It's now been
19 six years. Anyone who graduated from
20 there or got into residency is now done
21 with residency and practicing.

22 I've been working in HHC as
23 well as St. Barnabas so I meet people in
24 the hospital setting. And then I have a

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1 battle, but I think I would be able to
2 accomplish that given the opportunity.

3 Q. On what basis do you think
4 you'd be able to accomplish that given
5 your exam history?

6 A. As I said, more people have
7 seen me working in the work environment
8 outside of just a piece of paper that
9 says how I did on an exam, and so
10 knowledge is much different
11 from -- there's those who have clinical
12 knowledge and those who have book
13 knowledge, and I think based on that, a
14 lot more people recognize, when they see
15 you, work with you, exactly what you
16 have.

17 Q. And you're not willing to
18 tell us who it is?

19 A. No.

20 Q. So we can't reach out to
21 those people and ask them?

22 A. No.

23 Q. So you're asking us to just
24 take your word for it?

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1 A. I think my validity,
2 validating the exam and me getting into
3 residency are two different avenues.

4 Q. So you think that these
5 people would go out on a limb to give you
6 a residency program position that are
7 admittedly pretty competitive despite
8 your examination history, but you won't
9 tell us who those people are so we can
10 talk to them?

11 A. Well, I've had conversations
12 with people over the last couple years,
13 people asking me when are you going to be
14 able to -- not trying to get into every
15 single detail regarding this case or what
16 I'm going through, so I haven't made it
17 public knowledge exactly what my status
18 is, so some have said they'll help. Some
19 may not help.

20 I can't really take that
21 full force and try to see where -- what's
22 truth in the matter until all of this is
23 resolved. So for that fact, yeah, I
24 can't say they will or won't, but I will

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1 to this litigation. I think future is
2 irrelevant to whether or not this score
3 is going to be validated 2007. If
4 they're not going to come through for me,
5 then even if I get a validated score, I'm
6 not going to be practicing medicine.

7 Q. So you would want arguably
8 for the defendants in this case to be
9 financially responsible for your future,
10 whatever it may be, in terms of whatever
11 impact this might have, but you're not
12 willing to tell us how you think you can
13 get there?

14 A. I think that if it comes
15 down to the point where financial
16 responsibility and who's responsible or
17 what is owed back to me becomes a
18 situation, then I would be at the point
19 of situation to release names; but until
20 we get to that point, I find no need to,
21 unless you guys are telling me that
22 financially ECFMG and NBME is going to
23 reimburse me for any losses I may have
24 incurred because of this.

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1 take the assumption that they will try to
2 help if they said it in the past.

3 Q. And you don't have anything
4 in writing committing anyone to help you?

5 A. No. I've never had anybody
6 commit anything to writing.

7 Q. Have you ever had anyone
8 express an interest in assisting you in
9 overcoming administrative hurdles in this
10 action?

11 A. Someone that would step
12 forward? I've had some people when I was
13 in the city hospital say that, you know
14 what, first things first, get Step 3
15 done. At that point, if you can do it
16 well, first attempt, high score, that
17 could be an avenue to look past all of
18 the attempts in 1 and 2.

19 Q. And you won't tell us who
20 those people are?

21 A. No. Not at this point.

22 Q. Do you plan to tell us at
23 all in this litigation?

24 A. I don't think it's relevant

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1 Q. You should not take anything
2 we say today as any waiver of claims or
3 defenses we may have just for the
4 purposes of the record.

5 A. No. I understand.

6 Q. In order to get into a
7 residency program you would agree that
8 you need letters of recommendation. Is
9 that correct?

10 A. That is correct.

11 Q. Who would you anticipate
12 getting your letters of recommendation
13 from?

14 A. I already have a clinical
15 letter of recommendation. I can go out
16 on a limb now and possibly get letters of
17 recommendation from those supervisors
18 I've worked with over the last couple of
19 years.

20 Q. Who's your clinical letter
21 of recommendation from?

22 A. I had one from Dr. Gibson
23 who is an orthopedic physician.

24 Q. At which hospital?

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1 A. He was working with me for
2 Center for Orthopaedics. We worked out
3 of Saint Raphael's in Connecticut.

4 Q. And what year is that letter
5 of recommendation?

6 A. Those are all before. That
7 was during my school times of 2002, 2003.

8 Q. Any other letters of
9 recommendation you have?

10 A. I think I had a letter of
11 recommendation from Carlo Hallak who was
12 the program director of Kaplan CS at the
13 time, so he was my direct supervisor in
14 terms of clinical skills and patient note
15 grading.

16 Q. And he is your supervisor
17 from when you were working at the test
18 prep program at Kaplan?

19 A. Yes.

20 Q. He's not working with you in
21 a hospital setting?

22 A. No. He's not working with
23 me in a hospital setting.

24 Q. And when was that letter of

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1 residency program application process,
2 what, if anything, would you do with
3 respect to letters of recommendation?

4 A. Well, letters of
5 recommendation, depending on what year
6 I'm doing it. If it winds up being
7 something such as a scramble this year,
8 I'd probably get letters from my current
9 supervisors that I've worked with or my
10 former boss at HHC.

11 If it's something that's
12 going to be next year, I'd probably do an
13 externship or observership at the
14 hospitals to gain some newer letters of
15 recommendation.

16 Q. So would it be fair to say
17 if you did the scramble this year, you
18 would not have any clinical letters of
19 recommendation updated?

20 A. Updated clinical, no. The
21 only one I could reach out to is I did an
22 externship over at Bayley Seton Hospital
23 in Staten Island with psychiatry, and I
24 could probably reach out over there to

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1 recommendation dated?

2 A. It had to be after 2006
3 because I was working at Kaplan after
4 that so somewhere towards 2006 or 2007.
5 I may have used his letter as part of my
6 scramble application.

7 Q. Any other letters of
8 recommendation?

9 A. I do have another one. I
10 forget who that is.

11 Q. A clinical one?

12 A. I do have a clinical one
13 from when I was in Manchester from Dr.
14 Doss, I believe it was. He's a GI
15 hepatology doctor.

16 Q. What year would you estimate
17 that letter was from?

18 A. Well, I was there in 2001,
19 so it has to be from that time.

20 Q. Any other letters of
21 recommendation you have?

22 A. Currently, I don't recall
23 any other ones.

24 Q. If you were to move into a

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1 the director to get something. That was,
2 I think, some time in the last -- it's on
3 the CV. I forget what year it was. It
4 was within the last couple years.

5 Q. Let's take a look at your
6 CV. That's within Exhibit 57. Can you
7 point to your externships for me?

8 A. Sure. The one that I did
9 was in psych. Let's see if it's listed
10 here.

11 Q. On the last page you have
12 externship, New York Medical College,
13 Richmond listed?

14 A. January 2009.

15 Q. So that was from January
16 2009, so that's five years ago?

17 A. That's still a couple --
18 yeah. That's been about four, five years
19 ago.

20 Q. Have you had any more recent
21 externships?

22 A. No, because we were in the
23 middle of all of this, so at that point I
24 couldn't even really go into an

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<p>1 externship saying that I'm valid with the</p> <p>2 exams.</p> <p>3 Q. When's the last time you've</p> <p>4 seen a patient in a medical capacity?</p> <p>5 A. You mean --</p> <p>6 Q. As a medical student?</p> <p>7 A. -- actually treating? It</p> <p>8 would be 2009.</p> <p>9 Q. Do you have any plans to</p> <p>10 apply for externships in the near future?</p> <p>11 A. If all this gets resolved,</p> <p>12 then yes. Basically, medicine would be</p> <p>13 my main...</p> <p>14 Q. But in the last five years</p> <p>15 you've not seen or treated any patients?</p> <p>16 A. I have not treated any</p> <p>17 patients. I know about cases because I</p> <p>18 work in the facilities and cases may come</p> <p>19 up that we discuss, but I have not been</p> <p>20 the lead or even a participant in the</p> <p>21 actual care of a patient.</p> <p>22 Q. You have not laid hands on a</p> <p>23 patient?</p> <p>24 A. No. I have not laid hands</p>	<p>1 from there.</p> <p>2 Q. But is that yes, you would</p> <p>3 plan to take a prep course?</p> <p>4 A. If it's something that I can</p> <p>5 afford, if it's something that works into</p> <p>6 my schedule, then yes.</p> <p>7 Q. Besides taking time off to</p> <p>8 prepare and taking a prep course, what</p> <p>9 else would you need to do to be ready for</p> <p>10 Step 3?</p> <p>11 A. It has to be a lot of</p> <p>12 questions, questions, questions,</p> <p>13 questions.</p> <p>14 Q. So just practice?</p> <p>15 A. Just practice, yeah.</p> <p>16 Q. And you've mentioned today a</p> <p>17 number of times your interest in passing</p> <p>18 Step 3 on the first attempt. Is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Why do you think that's</p> <p>22 important?</p> <p>23 A. I think that if you can pass</p> <p>24 Step 3 on the first attempt and break 85,</p>
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<p>1 on any patients.</p> <p>2 Q. What would be involved in</p> <p>3 getting prepared for taking Step 3?</p> <p>4 A. First things first would be</p> <p>5 open up my entire schedule so I can do</p> <p>6 Step 3 and only Step 3 and then it would</p> <p>7 be basically putting in the time with all</p> <p>8 the -- going through all the material in</p> <p>9 terms of books, going through all the</p> <p>10 question banks that are out there and</p> <p>11 practicing for the clinical portion of</p> <p>12 the Step 3.</p> <p>13 Q. How much time do you</p> <p>14 anticipate you would give yourself to</p> <p>15 prepare for Step 3?</p> <p>16 A. Since I haven't touched the</p> <p>17 material, at minimum it would have to be</p> <p>18 four months. I'd say four to six months</p> <p>19 probably give me okay.</p> <p>20 Q. Do you have plans to take</p> <p>21 any prep courses for Step 3?</p> <p>22 A. Prep courses are offered at</p> <p>23 different times. I'd have to see the</p> <p>24 schedule of the prep course and then go</p>	<p>1 90, it can make up and give me enough of</p> <p>2 a ground to justify the issues I have</p> <p>3 with Step 1 and Step 2. I'm more mature,</p> <p>4 more knowledgeable, and, basically, I was</p> <p>5 young back then taking it when I</p> <p>6 shouldn't have taken it.</p> <p>7 Half the times when I took</p> <p>8 it just to see the test, if I had just no</p> <p>9 score, it would have been better for me,</p> <p>10 but things changed over the years. It</p> <p>11 evolved to everything counts.</p> <p>12 Q. Would you agree that it</p> <p>13 would be detrimental to your attempt to</p> <p>14 get a residency program if you failed</p> <p>15 Step 3 the first time?</p> <p>16 A. Yes.</p> <p>17 Q. What do you think would be</p> <p>18 involved in getting ready to take Step 2</p> <p>19 CK again?</p> <p>20 A. I think the same exact steps</p> <p>21 as Step 3. Again, taking the time off,</p> <p>22 studying, going through all the question</p> <p>23 banks, doing all the NBME assessment</p> <p>24 tests, just time, practice, practice,</p>

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1 practice.

2 Q. Sitting here today, you
3 don't think you could take Step 2 CK and
4 pass it?

5 A. I could probably take it.
6 It's a matter of whether or not I can get
7 the time to do it.

8 Q. I meant if you took Step 2
9 CK right now, do you think you would pass
10 it?

11 A. No. Probably not. I think
12 there's a lot more you got to refresh on.

13 Q. Does that hold true for Step
14 1 as well?

15 A. Step 1 is a whole different
16 piece altogether.

17 Q. And can you explain why that
18 is?

19 A. Because clinically you see a
20 lot more things and you relate to a lot
21 more things from a CK perspective. It's
22 patient care. Step 1 is a lot of basic
23 sciences, nitpicking, little details.
24 You have to really get into the small

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1 get a really good grade, it would take me
2 about a year.

3 Q. If you had to, would that be
4 something you would be willing to do to
5 enter the practice of medicine?

6 A. Honestly, if I'm going to
7 wind up trying to take my Step 1 and Step
8 2 and everything all over again, I would
9 need a guarantee of a residency at the
10 end of that rainbow.

11 Q. So is that a no?

12 A. It's not something I want to
13 do. I mean, if that's the only way, then
14 the conversation would have to be had
15 because that basically means I have to
16 take myself out of working and out of
17 everything for a year for that and then
18 six months or so, and given my financial
19 state at home, it's not an option right
20 now.

21 Q. Do you find your current job
22 fulfilling?

23 A. It's very fulfilling in that
24 I'm in a healthcare organization. It's

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1 stuff. It's not big picture and it's not
2 really treating.

3 So it's understanding a lot
4 more intricate details versus taking a
5 patient and working through what they
6 have, symptoms and so forth.

7 Q. Could you describe just
8 briefly the content of the Step 1 exam?
9 That's the basic science exam, correct?

10 A. Yes. That is the basic
11 science exam. You have your anatomy,
12 physiology. You have your pharmacology.
13 You have your pathology, immunology,
14 microbiology. What else is on those? I
15 think a little bit of psychiatry. I
16 forget the other.

17 Q. What would be involved in
18 getting ready to take Step 1 again?

19 A. Everything. It's like
20 learning -- you literally have to learn
21 five semesters of work all over again.

22 Q. So how much time do you have
23 to take off?

24 A. That, honestly, if I want to

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1 very sad and depressing seeing patients
2 come in and out knowing that I should be
3 on the other side. And the salary,
4 whatever the salary is, is really not as
5 great considering what I need to get done
6 because, trust me, I'd rather not be
7 working three jobs and spend time with my
8 little kids than be working all the time.

9 Q. You're making over a
10 \$115,000, correct?

11 A. Well, I'm making 115 working
12 four jobs, and I'm still paying off
13 student loans, and I'm still paying off a
14 lot of the other debt that we had to
15 incur with other issues.

16 Q. You testified early today
17 that you have not had contact with -- is
18 it Dr. Suliman?

19 A. That's correct.

20 Q. For quite some time?

21 A. It's been years.

22 Q. Have you had contact with
23 anybody else from Optima since 2009?

24 A. In terms of students or

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<p>1 employees?</p> <p>2 Q. Anybody?</p> <p>3 A. Optima, students, if I see</p> <p>4 them at wedding events, we don't talk</p> <p>5 about Optima. We talk about our regular</p> <p>6 personal lives. I did have a</p> <p>7 conversation with the IT person who ran</p> <p>8 his thing a couple weeks ago.</p> <p>9 Q. And who is that?</p> <p>10 A. Adrian.</p> <p>11 Q. How did you get in contact</p> <p>12 with Adrian?</p> <p>13 A. I Facebooked him and had him</p> <p>14 call me back.</p> <p>15 Q. Do you have Facebook on your</p> <p>16 phone?</p> <p>17 A. No.</p> <p>18 Q. Does he have his last name</p> <p>19 on Facebook?</p> <p>20 A. I don't know, to be honest.</p> <p>21 I don't know if his name is there or if</p> <p>22 he has -- a lot of people change their</p> <p>23 names.</p> <p>24 Q. What was the nature of that</p>	<p>1 A. Less than three minutes.</p> <p>2 Three, four minutes.</p> <p>3 Q. And are you expecting him to</p> <p>4 get back to you?</p> <p>5 A. He says he will. I think</p> <p>6 before I get that, I think I'm going to</p> <p>7 have to reach out to him again.</p> <p>8 Q. Do you know where he's</p> <p>9 physically located?</p> <p>10 A. I think he's in Romania.</p> <p>11 Q. Were you able to see the</p> <p>12 return telephone number?</p> <p>13 A. No. He called me at work.</p> <p>14 Q. On a landline?</p> <p>15 A. Landline.</p> <p>16 Q. How did he know to call you</p> <p>17 at work?</p> <p>18 A. I told him to call me during</p> <p>19 the day.</p> <p>20 Q. Did you just have one</p> <p>21 Facebook message to him telling him to</p> <p>22 call you?</p> <p>23 A. No. I believe I tried to</p> <p>24 reach out to him a couple weeks prior.</p>
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<p>1 contact you had a few weeks ago with</p> <p>2 Adrian from Optima's IT?</p> <p>3 A. I basically wanted to know</p> <p>4 whether or not he had any information</p> <p>5 regarding when stuff was added to the</p> <p>6 server, and he said he doesn't work for</p> <p>7 Suliman anymore. He hasn't been paid in</p> <p>8 a long time.</p> <p>9 So, basically, the server,</p> <p>10 whatever he had, has been erased, but he</p> <p>11 said he would look into it to see if</p> <p>12 there was anything he could do to show</p> <p>13 when it is that his bank was updated</p> <p>14 versus when I took my exam.</p> <p>15 Q. Were these private messages</p> <p>16 on Facebook?</p> <p>17 A. No. He literally called me.</p> <p>18 Q. He called you. You had a</p> <p>19 telephone conversation?</p> <p>20 A. Yeah. I sent him a message</p> <p>21 saying I need to talk to you, so he got</p> <p>22 back to me a couple days later.</p> <p>23 Q. How long did this telephone</p> <p>24 conversation last?</p>	<p>1 He didn't get back to me and then at that</p> <p>2 point -- actually, I think we might have</p> <p>3 went back and forth a couple of times and</p> <p>4 then I told him, I need to talk to you</p> <p>5 regarding something. Call me.</p> <p>6 Q. Did you, in the messages</p> <p>7 going back and forth before you spoke on</p> <p>8 the phone, say what you needed to speak</p> <p>9 with him about?</p> <p>10 A. I basically said that I</p> <p>11 got -- I had been invalidated, and I'm in</p> <p>12 a situation where I'm about to try to get</p> <p>13 myself fixed so I need to talk to you.</p> <p>14 Q. In the time between the 2009</p> <p>15 time frame when things were going on and</p> <p>16 just this last couple weeks when you</p> <p>17 spoke with Adrian, have you had any other</p> <p>18 contact with Adrian in between that?</p> <p>19 A. I don't believe so. Unless</p> <p>20 it was a hi, bye. No conversations.</p> <p>21 Q. Do you know what Adrian is</p> <p>22 doing?</p> <p>23 A. He's an IT person so</p> <p>24 probably working doing something IT</p>

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<p>1 related.</p> <p>2 Q. Have you reached out to</p> <p>3 anybody else aside from Adrian for</p> <p>4 information regarding this case?</p> <p>5 A. No. I don't believe so.</p> <p>6 One of my friends was at Optima, and I</p> <p>7 spoke to him just briefly but nothing</p> <p>8 regarding the case.</p> <p>9 Q. Who is that?</p> <p>10 A. Jijoe.</p> <p>11 Q. Can you spell that for me?</p> <p>12 A. J-I-J-O-E.</p> <p>13 Q. And what's his last name?</p> <p>14 A. Joseph.</p> <p>15 Q. And you said he was a friend</p> <p>16 from Optima. Was he an employee?</p> <p>17 A. He was a friend of mine</p> <p>18 before Optima.</p> <p>19 Q. Did he attend Optima?</p> <p>20 A. He did not attend.</p> <p>21 Q. Did he work at Optima?</p> <p>22 A. He had done some lectures.</p> <p>23 Q. And when did you speak with</p> <p>24 him?</p>	<p>1 else in the last year, let's say, about</p> <p>2 your indeterminate score, not necessarily</p> <p>3 about this litigation in particular?</p> <p>4 A. Well, not this litigation.</p> <p>5 As my process was going through, Reeju, I</p> <p>6 had spoke to him because he had actually,</p> <p>7 you know, taken the thing, done a</p> <p>8 validation so I had mentioned to him.</p> <p>9 Sometimes I vent. He knows that I was</p> <p>10 going to go, but he's moved out to Cali</p> <p>11 since then so...</p> <p>12 Q. And this was Jijoe?</p> <p>13 A. No. Reeju. The name I had</p> <p>14 given -- one of the names I gave before.</p> <p>15 Q. R-I?</p> <p>16 A. R-E-E-J-U.</p> <p>17 Q. And you said he moved to</p> <p>18 California?</p> <p>19 A. He moved to California.</p> <p>20 Q. Do you speak with him by</p> <p>21 phone?</p> <p>22 A. Sometimes phone. Sometimes</p> <p>23 text.</p> <p>24 Q. And do you speak with</p>
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<p>1 A. Just we talk all the time</p> <p>2 but not regarding this. We're friends.</p> <p>3 Q. Did you speak with him</p> <p>4 regarding your indeterminate score?</p> <p>5 A. Back then everyone spoke to</p> <p>6 everyone about their indeterminate</p> <p>7 scores, so there was no pinpointing him</p> <p>8 over anyone else.</p> <p>9 Q. Have you discussed it with</p> <p>10 him more recently?</p> <p>11 A. I told him that I've</p> <p>12 gone -- I'm fighting it. I didn't go</p> <p>13 into any details of it.</p> <p>14 Q. When I was asking you about</p> <p>15 anyone else you spoke with, you mentioned</p> <p>16 Jijoe in particular. Is there a reason</p> <p>17 why?</p> <p>18 A. No, because you asked me and</p> <p>19 I'm under oath.</p> <p>20 Q. Is there anybody else?</p> <p>21 A. I don't remember really</p> <p>22 speaking about this case or anything to</p> <p>23 anybody else.</p> <p>24 Q. Did you speak to anybody</p>	<p>1 him -- have you spoken with him recently</p> <p>2 regarding your indeterminate score?</p> <p>3 A. No.</p> <p>4 Q. When's the last time you</p> <p>5 spoke with him about your indeterminate</p> <p>6 score?</p> <p>7 A. I think the last time I told</p> <p>8 him was when I finally got to see the</p> <p>9 judge. I told him that I did go before</p> <p>10 the judge, so things are progressing</p> <p>11 along and we'll see what happens.</p> <p>12 Q. But you've spoken to Reeju</p> <p>13 about this case?</p> <p>14 A. He knows that -- again, he</p> <p>15 knows that I'm fighting the case. He was</p> <p>16 actually from Pennsylvania, Philly, so in</p> <p>17 my attempt to also try to find counsel, I</p> <p>18 asked him does he know any lawyers.</p> <p>19 That's kind of how the door opened, but,</p> <p>20 again, we never got into any details</p> <p>21 about what's going on or what approach</p> <p>22 we're taking.</p> <p>23 (Whereupon, a document was</p> <p>24 marked for identification as</p>

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<p>1 Exhibit No. 62.)</p> <p>2 BY MS. McENROE:</p> <p>3 Q. Dr. Thomas, I'm handing you</p> <p>4 what I've marked as Exhibit 62. This is</p> <p>5 a document headed "USMLE and Appeals:</p> <p>6 The Hefty Burden Examiners Face in</p> <p>7 Appealing a USMLE Finding of</p> <p>8 Indeterminate Score or Irregular</p> <p>9 Behavior." Did I read that correctly?</p> <p>10 A. That's correct.</p> <p>11 Q. And this is written by</p> <p>12 Sherri Katz and Bob Bennett?</p> <p>13 A. Yes.</p> <p>14 Q. And then there's a footnote</p> <p>15 that says, The Bennett law firm would</p> <p>16 like to acknowledge the contribution of</p> <p>17 law clerk Whitney Campbell's research for</p> <p>18 this article.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. I'd also like at the same</p> <p>22 time to point your attention to your</p> <p>23 amended complaint which is at tab 2.</p> <p>24 A. Yes.</p>	<p>1 hearing, that's the USMLE score validity?</p> <p>2 A. Score validity, yes.</p> <p>3 Q. And in your amended</p> <p>4 complaint you make references to a study</p> <p>5 being conducted in paragraph 15?</p> <p>6 A. Yes.</p> <p>7 Q. And then in paragraph 16 you</p> <p>8 cite to the Bennett law firm. Is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Is the study being conducted</p> <p>12 the Bennett law firm document I'm looking</p> <p>13 at as an exhibit?</p> <p>14 A. Yes, it is.</p> <p>15 Q. In particular, I'd like you</p> <p>16 to flip to paragraph 19 of your amended</p> <p>17 complaint, and you'll see you make</p> <p>18 reference to a student F and a student G?</p> <p>19 A. Yes.</p> <p>20 Q. Simultaneously, please flip</p> <p>21 ahead -- unfortunately, there aren't page</p> <p>22 numbers on this, but you'll see that</p> <p>23 there is a section that has information</p> <p>24 for a student F and a student G that's</p>
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<p>1 Q. You'll see this is the</p> <p>2 version of your amended complaint to</p> <p>3 which NBME's counsel inserted paragraph</p> <p>4 numbers, and I'd like to direct your</p> <p>5 attention specifically at paragraph 16.</p> <p>6 A. Yes.</p> <p>7 Q. That is a quote and then</p> <p>8 it's attributed to Bennett law firm. Is</p> <p>9 that correct?</p> <p>10 A. That's correct.</p> <p>11 Q. Is that the same Bennett law</p> <p>12 firm as in Exhibit 62 I gave you?</p> <p>13 A. Yes, it is.</p> <p>14 Q. Do they represent you?</p> <p>15 A. No.</p> <p>16 Q. Are you personally</p> <p>17 acquainted with anyone from the Bennett</p> <p>18 law firm?</p> <p>19 A. No. Bennett was known to be</p> <p>20 the person who did a lot of hearings, and</p> <p>21 I was actually going to consider taking</p> <p>22 his representation, but his fee was way</p> <p>23 too high during my initial hearing.</p> <p>24 Q. When you say your initial</p>	<p>1 single spaced in the Bennett law firm</p> <p>2 Exhibit 62 I gave you?</p> <p>3 A. Yes.</p> <p>4 Q. For student F in Exhibit 62</p> <p>5 it says percentage of exposed questions,</p> <p>6 15 percent and that's what you have in</p> <p>7 your amended complaint, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Then for percent correct on</p> <p>10 exposed questions for student F, both</p> <p>11 documents have 83 percent; and percent</p> <p>12 correct on unexposed questions, both have</p> <p>13 67 percent; time spent on exposed</p> <p>14 questions, both have 43 seconds; time</p> <p>15 spent on unexposed questions, both have</p> <p>16 74 seconds, correct?</p> <p>17 A. I'm sorry. Are you looking</p> <p>18 at the complaint?</p> <p>19 Q. I'm comparing the amended</p> <p>20 complaint numbers to the numbers in</p> <p>21 Exhibit 62.</p> <p>22 A. Okay. So the percent</p> <p>23 exposed, 15 to 16.</p> <p>24 Q. Yes.</p>

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1 A. The...

2 Q. Percent correct on exposed

3 questions.

4 A. Where are you looking at

5 that on the other one? Are you getting

6 that from --

7 Q. Yes. In this the pages are

8 not numbered.

9 A. Maybe I'm on a different

10 page.

11 Q. Yes. You're on a different

12 page.

13 A. What page are you looking

14 for? The one that goes, on its face, a

15 good faith argument?

16 Q. Yes. We're in the same

17 place.

18 A. All right. These are the

19 exact students.

20 Q. So student F from your

21 amended complaint is the same student F

22 as from the Bennett law firm document?

23 A. That is correct.

24 Q. And student G from your

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1 amended complaint is the same student G

2 from the Bennett law firm document?

3 A. That's correct.

4 Q. Have you ever discussed this

5 Bennett law firm document with the

6 Bennett law firm?

7 A. I have not.

8 Q. You mentioned that the

9 Bennett law firm was known to be the guy?

10 A. Yes. That's what I was

11 told.

12 Q. Amongst whom?

13 A. Students who went to Optima

14 who had to go before the hearing.

15 Q. Do you have particular names

16 of individuals?

17 A. I do not.

18 Q. How did you get this Bennett

19 law firm document?

20 A. It was actually posted on

21 their website for a long time.

22 Q. What steps have you taken to

23 validate the information in this Bennett

24 law firm document?

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1 A. I can't validate based on

2 the fact that the law firm would not be

3 able to give any information to specific

4 students, so I have to assume that

5 because they put it out there as their

6 way of trying to get students aware that

7 it's legitimate.

8 Q. Do you know who student G or

9 F is?

10 A. No.

11 Q. You'll see some of the pages

12 have footnotes at the bottom?

13 A. Yes.

14 Q. Can you please flip to

15 footnote 7 in the Bennett law firm

16 document?

17 A. (Witness complies with

18 request.

19 Q. Footnote 7 reads: Some

20 statistics have been altered to protect

21 the identity of any student/doctor

22 represented by the authors, correct?

23 A. Yes.

24 Q. Do you have any reason to

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1 believe that's not true?

2 A. No.

3 Q. I'd like you to look ahead

4 at footnote 13. Footnote 13 reads: Some

5 percentage and statistics have been

6 altered to protect the identity of any

7 student.

8 Did I read that correctly?

9 A. Yes.

10 Q. Do you have any reason to

11 believe that's not true?

12 A. No.

13 Q. Yet you cite to those

14 numbers in your amended complaint.

15 That's correct, right?

16 A. Yes.

17 Q. You made a personal

18 appearance before the USMLE committee,

19 correct?

20 A. Yes, I did.

21 Q. You had the opportunity to

22 bring counsel. Am I correct?

23 A. Yes.

24 Q. You had the opportunity to

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<p>1 bring the Bennett law firm if you had 2 wanted? 3 A. Yes. 4 Q. You chose not to do that, 5 correct? 6 A. I chose not to do that. 7 Q. Are you familiar with the 8 term "irregular behavior"? 9 A. Yes. 10 Q. You understand that ECFMG 11 and USMLE each have policies and 12 procedures with respect to irregular 13 behavior? 14 A. Yes, I do. 15 Q. Have you been -- strike 16 that. 17 You have not been accused of 18 irregular behavior by ECFMG, correct? 19 A. No, I have not. 20 Q. You have not been accused of 21 irregular behavior by USMLE, correct? 22 A. No, I have not. 23 Q. You have not been accused of 24 irregular behavior by NBME, correct?</p>	<p>1 the answers you've given? 2 A. I don't think so. 3 Q. You mentioned earlier today 4 that you had bumped your head this past 5 weekend? 6 A. Yes. 7 Q. Is that correct? 8 Did that impair your memory 9 in any way? 10 A. I don't think so. 11 Q. You were cleared having had 12 a CT scan by a doctor. Is that correct? 13 A. Yes. 14 Q. Do you think that affected 15 your appearance today? 16 A. I don't think so. 17 Q. Do you have any reason to 18 believe it did? 19 A. I just had some symptoms 20 yesterday, headache and everything, but 21 today I don't seem -- I seem fine today. 22 * * * 23 RE-EXAMINATION 24 BY MS. HOLLAND:</p>
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<p>1 A. No, I have not. 2 Q. You have an understanding of 3 the what the word "indeterminate" means? 4 A. Yes. I think so. 5 Q. What is your understanding 6 of that word? 7 A. That they can't determine. 8 Q. Can't determine what? 9 A. Well, according to this, if 10 we're talking about the value of the 11 validity of the exam, they're saying they 12 cannot determine whether the exam is 13 valid or not. 14 MS. McENROE: Let's take a 15 quick break. 16 (A short break was taken.) 17 BY MS. McENROE: 18 Q. Dr. Thomas, you understand 19 you've been testifying under oath today? 20 A. Yes. 21 Q. Have the answers you've 22 given us today been truthful? 23 A. I believe so. 24 Q. Do you wish to change any of</p>	<p>1 Q. Dr. Thomas, you used the 2 words "I don't think so," and I just want 3 to make sure that I'm distinguishing 4 between a figure of speech that you may 5 use and -- because these are important 6 questions. 7 Is everything that you've 8 told us here today the truth? 9 A. I believe it is. 10 Q. Okay. 11 A. It is. 12 Q. Is there a reason why you 13 qualify it by saying I believe it is? 14 A. It is. To my memory, it is. 15 Q. And is there any reason why 16 your memory is incomplete or inaccurate 17 today? 18 A. I don't believe so. 19 MS. McENROE: So at this 20 point, we don't have any further 21 questions. What we're going to do 22 is suspend the deposition, so 23 we're going to finish for today. 24 There are a couple of things</p>

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1 that we'd like to follow up with	1 INSTRUCTIONS TO WITNESS
2 you on and we'll do that in the	2 Please read your deposition
3 coming days with respect to, for	3 over carefully and make any
4 example, Adrian that you had	3 necessary corrections. You should
5 mentioned and so pending getting	4 state the reason in the
6 more information on that that we	4 appropriate space on the errata
7 would need to re-open your	5 sheet for any corrections that are
8 deposition, we don't have any	5 made.
9 further questions today. Do you	6 After doing so, please sign
10 understand?	6 the errata sheet and date it. You
11 THE WITNESS: I understand.	7 are signing same subject to the
12 (Deposition was concluded at	7 changes you have noted on the
13 3:39 p.m.)	8 errata sheet, which will be
14	8 attached to your deposition.
15	9 It is imperative that you
16	9 return the original errata sheet
17	10 to the deposing attorney within
18	10 thirty (30) days of receipt of the
19	11 deposition transcript by you. If
20	11 you fail to do so, the deposition
21	12 transcript may be deemed to be
22	12 accurate and may be used in court.
23	13
24	14
	15
	16
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	18
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	21
	22
	23
	24
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1 CERTIFICATE	1 - - - - -
2	2 ERRATA
3 I do hereby certify that I	3 - - - - -
4 am a Notary Public in good	4 PAGE LINE CHANGE
5 standing, that the aforesaid	5
6 testimony was taken before me,	6 REASON: _____
7 pursuant to notice, at the time	7
8 and place indicated; that said	8 REASON: _____
9 deponent was by me duly sworn to	9
10 tell the truth, the whole truth,	10 REASON: _____
11 and nothing but the truth, that	11
12 the testimony of said deponent was	12 REASON: _____
13 correctly recorded in machine	13
14 shorthand by me and thereafter	14 REASON: _____
15 transcribed under my supervision	15
16 with computer-aided transcription,	16 REASON: _____
17 that the deposition is a true and	17
18 correct record of the testimony	18 REASON: _____
19 given by the witness; and that I	19
20 am neither of counsel nor kin to	20 REASON: _____
21 any party in said action, nor	21
22 interested in the outcome thereof.	22 REASON: _____
23	23
24	24 REASON: _____
15 WITNESS my hand and official seal	
16 this 15th day of January, 2014	
17	
18	
19 Lauren A. Moore	
20 Notary Public	
21	
22	
23	
24	

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, and that the same is
a correct transcription of the answers
given by me to the questions therein
propounded, except for the corrections or
changes in form or substance, if any,
noted in the attached Errata Sheet.

MATHEW THOMAS, JR., M.D. DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.
My commission expires: _____

Notary Public

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